



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No. 1979 of 2024

and

C.M.P.No.15314 of 2024

and

Cros. Obj.No.49 of 2024

C.M.A.No. 1979 of 2024 :

The Divisional Manager,
Royal Sundaram General Insurance Co.Ltd.,
Vishranti Melaram Towers,
No.2/319, Rajiv Gandhi Salai(OMR),
Karapakkam, Chennai. ... Appellant /2nd respondent

Vs.

1.Azhaguselvam
2.Kasthuri ... Respondents 1 & 2 / Petitioners 1 & 2
3.M.K.Jamal Mihideen ... 3rd Respondent / 1st respondent

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and Award dated 17.08.2023 passed in M.C.O.P.No.142 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court No.1 at Cuddalore.

For Appellant :Mr.G.Vasudevan
For Respondents 1 & 2 :Mr.F.Terry Chella Raja



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

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for M/s.M.Malar

Cros. Obj.No.49 of 2024 :

1.Azhaguselvam ... I Cross Appellant / 1st respondent
2.Kasthuri ... II Cross Appellant / 2nd respondent

Vs.

1.The Divisional Manager,
Royal Sundaram General Insurance Co.Ltd.,
Vishranti Melaram Towers,
No.2/319, Rajiv Gandhi Salai(OMR),
Karapakkam, Chennai. ... 1st Respondent / Appellant

2. M.K.Jamal Mihideen ... 2nd Respondent / 3rd Respondent

Prayer : Cross Objection filed under Order 41 Rule 22 of C.P.C., against the Award dated 17.08.2023 and made in M.C.O.P.No.142 of 2022 on the file of the Motor Accidents Claims Tribunal (Special District Judge – I) at Cuddalore.

For Cross-Appellants :Mr.F.Terry Chella Raja

For 1st Respondent :Mr.G.Vasudevan

COMMON JUDGMENT

(The Judgment of the Court was delivered by Mrs.R.Kalaimathi, J.,)

The Civil Miscellaneous Appeal has been preferred by the Insurance Company challenging the quantum of compensation ordered in in M.C.O.P.No.142 of 2022 on the file of the Motor Accident Claims Tribunal / Special District Court No.1 at Cuddalore dated 17.08.2023.



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

WEB COPY

2. Heard Mr.G.Vasudevan, learned counsel appearing for the appellant / 2nd respondent and Mr.F.Terry Chella Raja, learned counsel appearing for the respondents 1 and 2 / claimants and perused relevant records.

3. The facts led to the filing of the claim petition is stated in brief:

On 30.09.2021, at about 4.30 p.m., while son of the claimants no.1 and 2 was travelling in a two wheeler bearing Reg.No.TN-91-AZ-3575 from Kullanchavadi - Kochathiram along the main road, at the point of Pelanthoppu near the residence of one Jeyapal, Eicher lorry bearing Reg.No.TN-33-BC-8410 came towards west in a high speed and negligent manner hit on the above said two wheeler and caused accident. The claimants' son sustained severe injuries on his head and all over the body and when he was taken to the Cuddalore Government Hospital, he was declared dead. At the time of accident, he was healthy and physically fit person. He was aged about 21 years having completed his B.Tech., Degree and working at National Thermal Power Corporation, Neyveli and was earning Rs.50,000/- p.m. He was the only bread winner of their family. Due to the death of their son, the claimants have been suffering without



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

any income. The driver of the lorry was responsible for the accident. For the loss of love and affection, mental agony and loss of dependency an amount of Rs.1,00,00,000/- was claimed by the claimants by filing the claim petition.

4. The details of the counter filed by the Appellant-Insurance Company/ 2nd respondent are given as hereunder:

The occurrence of the accident and the details have been denied. The Insurance Company denied that the 1st respondent's Eicher Lorry was insured with them at the time of accident. It was also denied that the driver of the said vehicle had a valid driving licence to drive the vehicle at the time of accident. The deceased drove the two wheeler without following the traffic rules and regulations and invited the accident. The petitioners were put to strict proof of age, occupation and monthly income of the deceased and the claim is excessive.

5. The Tribunal upon consideration of oral and documentary evidence has passed an award for a sum of Rs.30,06,600/- with interest at the rate of 7.5% per annum from the date of filing of the petition payable by the 2nd respondent/Insurance Company.



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

WEB COPY

6. The compensation granted by the Tribunal is tabulated hereunder:

Sl. No.	Description	Amount awarded by Tribunal
1	For Loss of Income	Rs.27,21,600/-
2	For Loss of Love and Affection	Rs. 2,00,000/-
3	For Funeral Expenses	Rs. 20,000/-
4	For Transport Expenses	Rs. 15,000/-
5	For Loss of Clothes and Ornaments	Rs. 50,000/-
	Total	Rs.30,06,600/-

7. Mr.G.Vasudevan, learned counsel appearing for the appellant/Insurance Company would strenuously contend that the claims Tribunal fixed the notional monthly income of the deceased at Rs.18,000/- is on the higher side: The claims Tribunal erred in awarding Rs.2,00,000/- towards loss of Love and Affection to the parents of the deceased and awarding Rs.50,000/- towards loss of Clothes and Ornaments of the deceased are on the higher side.

8. On the claimants' side Cross-Objection has been filed in Cros.Obj.No.49 of 2024.



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

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9. The learned counsel appearing for the claimants/Respondents 1 and 2 would strenuously argue that the total compensation awarded by the Tribunal is on the lower side. The monthly income fixed in respect of the deceased at Rs.18,000/- p.m., is insufficient and sought for enhancement of the compensation granted.

10. As regards loss of Love and Affection, the Hon'ble Supreme Court has standardised the details in the case of **National Insurance Co.Ltd., v. Pranay Sethi** reported in **2017 (2) TN MAC 609 (SC)**, wherein, in respect of loss of Consortium, the Hon'ble Supreme Court has fixed Rs.40,000/- for each claimants. Therefore, an amount of Rs.40,000/- each to the parents of the deceased is granted instead of Rs.2,00,000/-, under the head of loss of Love and Affection. For the loss of Estate, the Hon'ble Supreme Court has quantified as Rs.15,000/- and the same is granted instead of Rs.50,000/-. It has been stated that the deceased was Engineering graduate and working at National Thermal Power Corporation, Neyveli and he was earning Rs.50,000/- p.m. No document was filed to substantiate the said fact. The Tribunal fixed the notional income of the deceased at Rs.18,000/- and by adding 40% for the future prospects and calculated his monthly income at Rs.25,200/- which cannot be considered



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

to be not reasonable.

11. Based on the afore stated discussions, the compensation as computed above is tabulated and given hereunder: Therefore, the Compensation awarded by the Tribunal is reworked and tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Income	Rs.27,21,600/-	Rs.27,21,600/-	Confirmed
2	For Love and Affection	Rs. 2,00,000/-	Rs. 80,000/-	Reduced
3	For Funeral Expenses	Rs. 20,000/-	Rs. 20,000/-	Confirmed
4	For Transport Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
5	For Loss of Clothes and Ornaments is converted as Loss of Estate	Rs. 50,000/-	Rs. 15,000/-	Reduced
	Total	Rs.30,06,600/-	Rs.28,51,600/-	

12. Thus, the compensation awarded by the Tribunal is reduced from Rs.30,06,600/- to Rs.28,51,600/- which would carry interest at the rate of 7.5% per annum.



C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

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(i) The Civil Miscellaneous Appeal stands Partly Allowed.

(ii) Cross Objection No.49 of 2024 preferred by the claimants stand Dismissed.

(iii) The compensation awarded by the Tribunal is reduced from Rs.30,06,600/- to Rs.28,51,600/-.

(iv) The Appellant / Insurance Company is directed to deposit the modified compensation amount i.e., **Rs.28,51,600/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation to the credit of M.C.O.P.No.142 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court No.1 at Cuddalore, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(v) On such deposit being made, the Claimants/Cross Objectors are permitted to withdraw the same as per the apportionment made by the Tribunal along with interest and costs (less the amount if any already withdrawn), by making necessary cheque application before the Tribunal. No costs. Consequently, connected civil miscellaneous petition is closed.



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C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

(J.N.B. J.) (R.K.M.J.,)
22.08.2024

Index: Yes/No
Speaking Order/Non Speaking order
NCC:Yes / No
ssn

To

1. The Motor Accidents Claims Tribunal,
Special District Court No.1,
Cuddalore.
2. The Section Officer,
V.R Section,
High Court, Madras.



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C.M.A.No.1979 of 2024 and Cros. Obj.No.49 of 2024

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